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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/577,237	02/22/2007	Jyunichi Samo	0666.2870000/TGD/JHH	4121
26111	7590	04/22/2009		
STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.			EXAMINER	
1100 NEW YORK AVENUE, N.W.			COLEMAN, KEITH A	
WASHINGTON, DC 20005			ART UNIT	PAPER NUMBER
			3747	
			MAIL DATE	DELIVERY MODE
			04/22/2009	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/577,237	<b>Applicant(s)</b> SAMO ET AL.
	<b>Examiner</b> KEITH COLEMAN	<b>Art Unit</b> 3747

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If no period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### **Status**

1) Responsive to communication(s) filed on 13 January 2009.  
 2a) This action is FINAL.      2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### **Disposition of Claims**

4) Claim(s) 1-7 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-7 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### **Application Papers**

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on 4/26/2006 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### **Priority under 35 U.S.C. § 119**

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### **Attachment(s)**

1) Notice of References Cited (PTO-892)  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) Information Disclosure Statement(s) (PTO/0256/06)  
 Paper No(s)/Mail Date \_\_\_\_\_

4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date. \_\_\_\_\_

5) Notice of Informal Patent Application

6) Other: \_\_\_\_\_

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-7 are rejected under 35 U.S.C. 102(b) as being anticipated by Sakaguchi et al. (US Patent Publication 2004/0163622).

With regards to claim 1, the patent to Sakaguchi et al. discloses a first lever (34, See Figures 2-3) interlockingly connected to a rotary speed setting lever (39, See Figures 2-3); a second lever (34b, See Figure 3) pivotally supported by the first lever and a third lever (31c, See Figure 3) pivotally supported by the second lever, its rotation amount regulated by the second lever and interlocked with a governor weight (24), characterized in that an elastic member (37, See Figure 5) is provided between the first lever and the second lever so as to bias the levers for decreasing a rotary speed of an engine for a fixed amount a time of low speed rotation, and a set load changing means for the elastic member (37) is attached to the first lever near the elastic member (37). Using broadest reasonable interpretation, ‘interlock’ is defined as to fit (parts) together to ensure coordinated action. Thus, all parts are interlocked in Figures 3 and 5.

With regards to claim 6, the patent to Sakaguchi et al. discloses wherein the governor weight (24) acts directly on the third lever (31c, See Figure 3).

With regards to claim 7, the patent to Skinner discloses wherein the governor device is enclosed in a crankcase comprising an opening that allows adjustment of the set load changing means (See Figures 1 and 4).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation

under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 2-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sakaguchi et al. (US Patent Publication 2004/0163622) in view of Skinner (US Patent No. 4,355,609)

With regards to claim 2, the patent to Sakaguchi et al. discloses all the limitations of the claimed subject matter including using a elastic or spring mechanism 37except positively disclosing a bracket for the elastic member at the side of the first lever is constructed by an elastic plate, the elastic plate touches an outer peripheral surface of an adjusting shaft, and a distance between the outer peripheral surface of the adjusting shaft and an axis is changed by stages.

The patent to Skinner discloses wherein a bracket (i.e. rubber bellows housing the magnets 23, 22, Col. 2, Lines 35-40) for the elastic member (24) at the side of the first lever (16, See Figure 1) is constructed by an elastic plate (i.e. rubber bellows), the bracket (24) touches an outer peripheral surface of an adjusting shaft (magnets 22, 23, See Figure 1, appears to project from the levers 16 and 12 as a shaft), and a distance between the outer peripheral surface of the adjusting shaft (22, 23) and an axis is changed by stages (via rubber bellow, See Figure 1, Col. 1, Lines 10-25), and wherein the bracket for the elastic member (24) at the side of the first lever (16) is constructed

by an elastic plate (i.e. rubber bellow or plates). Using broadest reasonable interpretation, the bellows are interpreted as rubber or elastic plates and since a shaft is defined as a column or any tubular or pillar-like supporting structure, the magnets shown in Figure 1 are interpreted as an adjusting shaft. As to the stages, Skinner discloses that the apparatus is necessary for adjusting fuel operations or stages for normal, idling, and start-up engine speeds.

Since both patents are analogous art and both elastic mechanisms (spring and bellows) were known at the time the invention was made, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to substitute the spring mechanism of Sakaguchi et al. with an elastic in view of the teaching to Skinner in order to properly retract and expand the levers depending on engine speed.

With regards to claim 3, the combination of Sakaguchi et al. and Skinner discloses all the limitations of the claimed subject matter including Skinner disclosure of wherein a rotation limiting member (16) is projected from one of ends of the adjusting shaft (22, 23), and a projection (19, Col. 2, Line 29) which can touch the rotation limiting member (near 19, the end of member 16, See Figure 1) is provided on a plate (the housing, See Figure 1) supporting the adjusting shaft (22, 23, See Figure 1). As shown in Figure 1, the first lever (16) is also interpreted as being a rotation-limiting member.

With regards to claim 4, the combination of Sakaguchi et al. and Skinner discloses all the limitations of the claimed subject matter including Skinner disclosure of

wherein an engaging part (20, Col. 2, Line 33) for an adjusting operation means is formed on one of sides of the adjusting shaft (22, 23, See Figure 1).

With regards to claim 5, the combination of Sakaguchi et al. and Skinner discloses all the limitations of the claimed subject matter including Skinner disclosure of wherein the elastic member (24) and the adjusting shaft (22, 23) are provided oppositely to a pivotal support part (13, Col. 2, Line 13) of the first lever (16) and the second lever (12, See Figure 1).

***Response to Arguments***

1. Applicant's arguments filed 1/13/2009 have been fully considered but they are not persuasive.

***Applicant's Arguments***

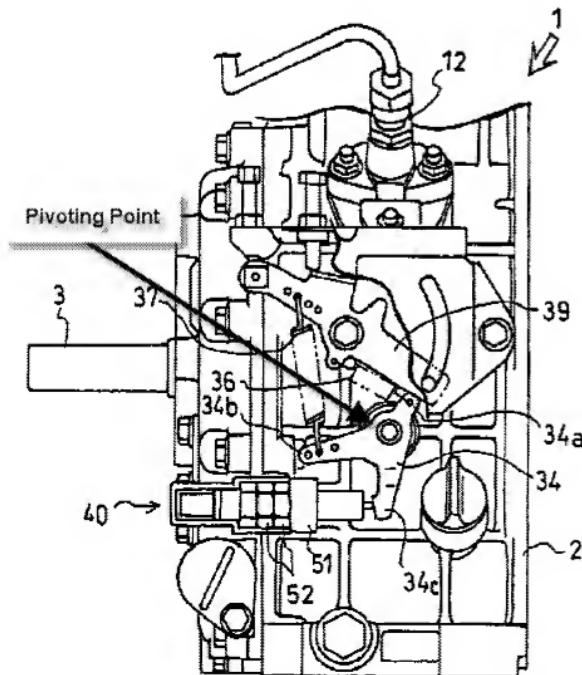
Applicant contends that the first lever and second lever are not pivotally connected and the dependents for the same reasons should read over the cited prior art.

***Examiner's Response to Arguments***

Using broadest reasonable interpretation, pivot is clearly defined as "a pin, point, or short shaft on the end of which something rests and turns, or upon and about which

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something rotates or oscillates". Ostensibly, the Sakaguchi publication clearly shows members 34 and 34b pivoting in view of the definition.



Lastly, the specificity found in Applicant's specification and remarks are not found in the claim language. Applicant is reminded to see MPEP 2111. In re Prater, 415 F.2d 1393, 1404-05, 162 USPQ 541, 550-51 (CCPA 1969) The court explained that "reading a

claim in light of the specification, to thereby interpret limitations explicitly recited in the claim, is a quite different thing from 'reading limitations of the specification into a claim,' to thereby narrow the scope of the claim by implicitly adding disclosed limitations which have no express basis in the claim." Thus, the claim is not limited to such interpretation and the rejection still holds.

As such, this action is made final.

***Conclusion***

2. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to KEITH COLEMAN whose telephone number is (571)270-3516. The examiner can normally be reached on 5:30-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Stephen Cronin can be reached on (571)272-4536. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

KAC  
/K. C./  
Examiner, Art Unit 3747

/Mahmoud Gimie/  
Primary Examiner, Art Unit 3747